

REGISTER OF CLASSIFICATION DECISIONS

Date of entry in Register:	11 November 1998
Name of applicant/court:	Paul Renk
Applicant to the Labelling Body:	Not Applicable
Title of Publication:	Jung und Frei Nr. 107 April 1996
Other Known Titles:	Not Stated
Director:	Not Applicable
Producer:	Not Applicable
Publisher:	Peenhill Ltd
Author:	Not Applicable
Format:	Magazine
Country of Origin:	England
Language:	German

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Components of film originally examined:

Feature:	Not Applicable	Running time:
Trailers:		Running time:
		Total Running time:

Excision/Alteration: Not Applicable.

Reason(s) for Excision:

Not Applicable.

Classification Decision:

Objectionable.

Display Conditions:

Not Applicable.

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Descriptive Note:

Not Applicable.

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Direction to issue a label has been given on: Not Applicable

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SUMMARY OF THE REASONS FOR DECISION:

The Film and Literature Board of Review classified the video recording entitled *Die Angler* and the magazines *Jung und Frei* Nr 107 (April 1996), *Jung und Frei* Nr 108 (June 1996), *Jung und Frei* Nr 109 (July 1996) and *Jung und Frei* Nr 110 (August 1996) as “objectionable” because their availability was likely to injure the public good.

The publications primarily contained pictures of naked children and young persons. The statutory test is the extent and degree to which, and the manner in which, the *publication* exploits the nudity of children. The *Concise Oxford Dictionary* (7th ed.) defines exploit as “utilize (person etc.) for one’s own ends...”. There can be little doubt that the fact that these photographs appear in these publications indicates that the makers of the publications are utilising the subject matter of the photographs and video recording for their own ends. A consideration of the factors in s.3(4) reinforces this view.

In considering the dominant effect of the magazines, the articles appear to be written for naturists in order to maintain or reinforce readers’ perception that naturism is a normal lifestyle. The articles more often than not bear little or no relationship to the pictures purporting to illustrate them. The video contains no plot or characterisation; it has the feel of a family video which records a nudist holiday, except that few adults are shown. The videographer tends to pan away from adults, focusing instead on the activities of children. The video is not shot in a prurient manner. It does not dwell on genitalia, although these are obviously in view as the children are going about their activities. The Board found that there was very little, if any, social, cultural or educational merit in these publications beyond their use as a record for those photographed of their activities.

S.3(4)(d) requires the Board to consider the persons to whom the publications are intended or are likely to be made available, and s.3(4)(e) requires the Board to consider the purpose for which the publications are intended to be used. These two matters were very helpful to the Board in determining the extent and degree to which, and the manner in which, these publications exploit the nudity of children and young persons. The Board was of the view that the purpose of these publications is rather unambiguous. Their purpose is the presentation of naked children and young persons. There is very little wider context. The publications do not show the nudist camps as a whole, or any activities not involving children. The children and young persons may well have been originally photographed in good faith by adult friends and relatives, as a record of family activities, but the Board found it difficult to ascertain what legitimate

reason there was for these records to be subsequently marketed and disseminated all over the world.

The Board was struck by the contrast between the content of these publications, which may originally have had a legitimate purpose, and the packaging and distribution of these publications, which undermine whatever legitimate purpose the photographic images may originally have had. This raises questions about the legitimacy of the publications' purpose. The immediate audience of these publications is the adult applicant. The general audience for the titles would include the children who were photographed, their families, and the people who were at the nudist camps at the time. Included in this list could also be adults with a general interest in naturism, but because the publications concentrate on naked children and young persons, the class of persons is more accurately stated as adults with an interest in naturism who also like to look at naked children, for a legitimate purpose, or for sexual titillation. The commercial marketing and distribution of these publications are matters the Board is required to consider in s.3(4), and are relevant in determining whether the nudity of children and young persons has been exploited in terms of s.3(3)(b). Further, s.3(1) states that it is the availability of the publication, not the publication itself, that must be found likely to injure the public good before it can be banned. The marketing and distribution of these publications beyond their original intended and legitimate audience are relevant to availability, and it is these matters which also make these publications likely to be injurious to the public good in terms of s3(1).

The Board also decided that the Bill of Rights Act did not impose any burden of proof on the person claiming that a publication was objectionable to show that it was. The Board said that the Bill of Rights Act did not require the Board to decide against banning a publication if the arguments for and against banning it were evenly balanced.

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